

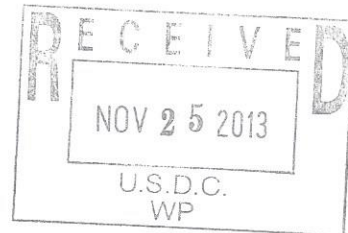
Criminal Notice of Appeal - Form A

AMENDED

NOTICE OF APPEAL

United States District Court

Southern District of New York



Caption:

United States of America

Alberto Vilar and Gary Tanaka

Docket No.: 05cr621

Sullivan, J.

(District Court Judge)

Notice is hereby given that Alberto Vilar and Gary Tanaka appeals to the United States Court of

Appeals for the Second Circuit from the judgment _____, other ☒ Collateral Order denying CJA funding to defend against taking of assets

entered in this action on October 25, 2013, (specify)
(date)

This appeal concerns: Conviction only ☐ Sentence only ☐ Conviction & Sentence ☐ Other ☒

Defendant found guilty by plea ☐ trial ☒ N/A ☐

Offense occurred after November 1, 1987? Yes ☒ No ☐ N/A ☐

Date of sentence: 2/5/10 (vacated 10-521) N/A ☐

Bail/Jail Disposition: Committed ☒ Not committed ☐ N/A ☐

Appellant is represented by counsel? Yes ☒ No ☐ If yes, provide the following information:

Defendant's Counsel: Vivian Shevitz

Counsel's Address: 46 Truesdale Lake Drive

South Salem, NY 10590

Counsel's Phone: 914 763 2122

Assistant U.S. Attorney: Benjamin Naftalis/ Justin Anderson

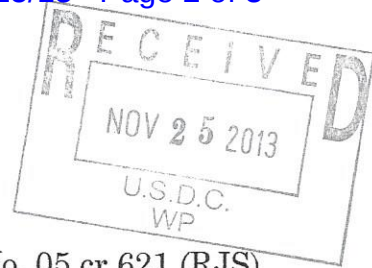
AUSA's Address: 1 St. Andrews Plaza NY NY 10007

AUSA's Phone: _____

I, GARY ALAN TANAKA, WANT VIVIAN SHEVITZ TO BE MY

LAWYER ON THIS APPEAL. Vivian Shevitz
Signature

G. Tanaka DATED 23 NOVEMBER 2013



UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

----- X

US v. Alberto Vilar and Gary Tanaka :

Petitioners :

----- X

SDNY No. 05 cr 621 (RJS)

REQUEST FORMA PAUPERIS
-FOR TANAKA
(RELATED: APPEAL 10-521(L)
AND APPEAL 13-4400
FILED FOR MR. VILAR)

Vivian Shevitz, an attorney duly admitted to practice in the Courts of New York State and in this Court, under penalty of perjury hereby declares:

1. I am CJA counsel for Petitioner Alberto Vilar in the district court (105 cr 621(RJS) and in Appeal 10-521 (L). I am also *pro bono* counsel for Gary Tanaka on this appeal.
2. I make this application to be allowed to file a Notice of Appeal without filing fee for Gary Tanaka. The Court would not file Mr. Tanaka's Notice of Appeal because I indicated he has CJA counsel, and I am not his CJA counsel.
3. Mr. Tanaka's CJA counsel would not file this notice of appeal for reasons explained in a just-filed motion for bail and recusal.
4. He asked me to file it for him. And he has written on the Amended Notice of Appeal that he wants me (Vivian Shevitz) to represent him on his appeal from the denial of CJA fees.
5. Mr. Tanaka is entitled to proceed with fee because he cannot pay the filing fee.

6. Mr. Tanaka had counsel appointed in the District Court for further (resentencing/ forfeiture) proceedings and thus has demonstrated his need for *forma pauperis* relief.
7. The Court of Appeals also allowed Mr. Tanaka to file a prior appeal without fee. (Mandamus, 13-2527, and 13-2550).
8. I therefore ask that Mr. Tanaka be allowed to file this amended notice of appeal (relating back to the date it was filed for Mr. Vilar (and rejected for Mr. Tanaka) without fee.

Dated: South Salem, NY
November 25, 2013

A handwritten signature in cursive script, appearing to read "Vivian Shevitz", written over a horizontal line. The signature is fluid and extends to the right.

Vivian Shevitz
Attorney for Defendants-Appellants
VILAR and TANAKA
46 Truesdale Lake Drive
South Salem, New York 10590
914 763 2122
Vivian@shevitzlaw.com